PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference P 02 081 WO	**FOR FURTHER ACTION**	See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)
International application No. PCT/DK 02/00461	International filing date *(day/month/year)* 02.07.2002	Priority date *(day/month/year)* 02.07.2002
International Patent Classification (IPC) or both national classification and IPC A23G3/30		
Applicant GUMLINK A/S		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.

2. This REPORT consists of a total of 7 sheets, including this cover sheet.

   ☒ This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

   These annexes consist of a total of 5 sheets.

3. This report contains indications relating to the following items:

   - I ☒ Basis of the opinion
   - II ☐ Priority
   - III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
   - IV ☒ Lack of unity of invention
   - V ☒ Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
   - VI ☐ Certain documents cited
   - VII ☐ Certain defects in the international application
   - VIII ☐ Certain observations on the international application

Date of submission of the demand	Date of completion of this report
26.01.2004	25.10.2004
Name and mailing address of the international preliminary examining authority: European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized Officer Kardas-Llorens, E Telephone No. +49 89 2399-8652

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No. PCT/DK 02/00461

I. Basis of the report

1. With regard to the **elements** of the international application *(Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17))*:

Description, Pages

1-31 as originally filed

Claims, Numbers

1-33 filed with telefax on 06.10.2004

Drawings, Sheets

1-2 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
- ☐ the claims, Nos.:
- ☐ the drawings, sheets:

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

   (Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)

6. Additional observations, if necessary:

IV. Lack of unity of invention

1. In response to the invitation to restrict or pay additional fees, the applicant has:

   ☐ restricted the claims.

   ☒ paid additional fees.

   ☐ paid additional fees under protest.

   ☐ neither restricted nor paid additional fees.

2. ☐ This Authority found that the requirement of unity of invention is not complied with and chose, according to Rule 68.1, not to invite the applicant to restrict or pay additional fees.

3. This Authority considers that the requirement of unity of invention in accordance with Rules 13.1, 13.2 and 13.3 is

   ☐ complied with.

   ☒ not complied with for the following reasons:

   see separate sheet

4. Consequently, the following parts of the international application were the subject of international preliminary examination in establishing this report:

   ☒ all parts.

   ☐ the parts relating to claims Nos. .

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes:	Claims	
	No:	Claims	1, 21, 28
Inventive step (IS)	Yes:	Claims	
	No:	Claims	1, 21, 28
Industrial applicability (IA)	Yes:	Claims	1-33
	No:	Claims	

2. Citations and explanations

see separate sheet

Re Item IV

Lack of unity of invention

This Authority considers that there are 2 inventions covered by the claims indicated as follows:

I: Claims 1-20, 28-32 directed to: compressed chewing gum tablet
II: Claims 21-27, 33 directed to: chewing gum granulate

The reasons for which the inventions are not so linked as to form a single general inventive concept, as required by Rule 13.1 PCT, are as follows:

The subject-matter of independent claim 1 is directed to a compressed tablet comprising gum base granules and additives in a gum center.
The subject-matter of independent claim 21 is directed to chewing gum granulate (not even related to the gum base) comprising a specific amount of a resin.
Thus, there exists no technical relationship between both subject-matter which links them to form a single general inventive concept.

Re Item V

Reasoned statement with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

Reference is made to the following documents:

D1: EP-A-0 151 344 (WARNER LAMBERT CO) 14 August 1985 (1985-08-14)
D2: US-A-5 017 385 (WIENECKE HORST P) 21 May 1991 (1991-05-21)
D3: US-A-4 737 366 (GERGELY GERHARD ET AL) 12 April 1988 (1988-04-12)

Novelty:
The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claim 1, 21 and 28 is not new in the sense of Article 33(2) PCT.

The document D1 discloses a compressed chewing gum tablet, chewing gum granulation and a method of providing a compressed chewing gum as claimed in

present claims 1, 21 and 28 (See in particular claims 1, 12, 20, p. 10, l. 32 to p. 11, l. 25 in D1). According to present claim 1, the gum center can be partly encapsulated by a lubricant, a glidant or an anti-adherent. A lubricant, a glidant or an anti-adherent is also used as a compression aid in D1 (see claim1). Thus, as such a barrier layer as presently claimed is also formed in D1. As far as the present granulates are concerned, it should be stated that it is claimed that they are "substantially free" of lubricants, glidants or anti-adherents. This means that small amounts of them can be present in the granulates as it is the case in D1 (see e.g. the examples in D1).

Also the content of D3 is novelty destroying for the subject-matter of claim 1 (See in particular examples 1 and 2 in D3). D3 relates to a chewing gum consisting of a granulated chewing gum base and fillers, additives and active substances. Furthermore, the chewing gum there comprises a tablet coating. Sugar which is used as a coating aid in the example in D3 can be considered as glidant.

Inventive step:
The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claims 1, 21 and 28 does not seem to involve an inventive step in the sense of Article 33(3) PCT.
The object of the present invention is to provide a compressed chewing gum tablet which provides a texture like conventionally mixed chewing gum. In the light of present examples on pages 30 and 31 the desired texture characteristics have been achieved by adding natural resins to the compositions.
The document D1 is regarded as being the closest prior art to the subject-matter of claims 1, 21 and 28. Said document also discloses the presence of natural resins (see in particular pages 10 and 1, claims 1, 12, 16 and 20) in the preparation of compressed chewing gum tablets. Accordingly, the presently posed problem has already been solved in a similar manner by D1.
Furthermore, as far as the wording of claim 1 is concerned, it should be stated that said wording does not explicitly claim a tablet which comprises natural resins.
The applicant states that the present chewing gum tablet has an improved texture and that the chewing gum of D1 has relatively poor texture and tackiness compared to conventionally mixed chewing gum. The present application does not provide any evidence (e.g. comparative examples) which demonstrates these statements.
As far as a "barrier layer" in the present tablets is concerned, it should be stated that when considering a partly encapsulation by a barrier layer selected from the group of lubricants (as claimed in present claim 1), such an encapsulation with a lubricant (e.g.

hydrogenated cottonseed oil as also used in the examples of D1) can not be considered to be a real, hard encapsulation of the tablet. It is only an oil barrier which forms a part of the gum composition due to the physical characteristics of an oil. Thus, the presently posed problem has already been solved by the compressed chewing gum of D1.

Remaining dependent claims:
Dependent claims are only allowable when related to an allowable independent claim.